

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
Plaintiff	:	
	:	
V.	:	CIVIL ACTION NO.
PRECISION FLEET INDUSTRIAL	:	
SERVICE,	:	
Defendant	:	

**COMPLAINT TO RECOVER CIVIL PENALTIES**

Plaintiff, the United States of America, by its attorneys, Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania, and Virginia R. Powel, Assistant United States Attorney for said District, brings this action to collect civil penalties and for its complaint alleges:

1. This is a civil action by the United States of America, on behalf of the Occupational Safety and Health Administration (hereinafter “OSHA”) seeking the recovery of civil monetary penalties assessed against Precision Fleet Industrial Service (hereinafter “Precision Fleet”) for numerous violations of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et. seq. (hereinafter “the Act”) and its implementing regulations.

**JURISDICTION and VENUE**

2. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1345, and 1355 and 29 U.S.C. § 651 et. seq..

3. This Court has personal jurisdiction over the defendant and venue is proper under 28 U.S.C. § 1391 in that Precision Fleet has its principal place of business located at 2177 Bennett Road, Philadelphia, PA 19116.

## **PARTIES**

4. Plaintiff is the United States of America in its own right and on behalf OSHA, which at all times relevant hereto, was an agency of the United States responsible for the enforcement of the Act.

5. Defendant is Precision Fleet, whose principal place of business is located at 2177 Bennett Road, Philadelphia, PA 19116, within the jurisdiction of this Court, and who was at all times relevant to this action operating a business within this District.

## **COUNT ONE**

### **OSHA Inspection Number P305369324 Inspection Date: 05/23/2002**

6. On May 23, 2002, OSHA officials inspected defendant's place of business and issued defendant citations for numerous violations of the Act (Exhibits A-1 through A-7) including:

- a. Violation of 29 C.F.R. § 1903.19(c)(1) for the failure to keep the place of employment clean, orderly and in a sanitary condition. (Exhibit A-1).
- b. Violation of 29 C.F.R. § 1910.305(g)(1)(iii) for using cords and cables for a prohibited purpose. (Exhibit A-1).
- c. Violation of 29 C.F.R. § 1910.1200(e)(1) for the failure to develop and maintain a written hazard communication program at the workplace. (Exhibit A-2).
- d. Violation of 29 C.F.R. § 1910.1200(g)(1) for failing to obtain or develop a material safety data sheet for hazardous chemicals. (Exhibit A-3).
- e. Violation of 29 C.F.R. § 1910.1200(h)(1) for failing to provide information

and training on hazardous materials in the work area. (Exhibit A-4).

7. On July 17, 2002, OSHA issued a Citation and Notification of Penalty and a Debt Collection Notice to Defendant regarding the May 23, 2002 inspection. (Exhibit A-5).

8. On January 28, 2003, OSHA sent a Citation and Notification of Penalty and a Debt Collection Notice to Defendant for penalties assessed due to Defendant's failure to abate the May 23, 2002 OSHA violations. (Exhibit A-6).

9. On February 25, 2003, OSHA sent a final notification for payment due regarding the May 23, 2002 OSHA violations to Defendant in the amount of \$ 1,978.25. (Exhibit A-7).

10. Defendant never contested the citations which is now a final order of OSHA and is not subject to review by any court or agency.

11. As of the date of this complaint, defendant has not paid any amount of the penalty assessed although demand has been duly made. The amount due and outstanding for the May, 23, 2002 violations is \$2,139.57, including interest at the rate of 5.00% through April 30, 2003. No additional interest has accrued since April 30, 2003.

## **COUNT TWO**

**OSHA Inspection Number F305369324**

**Inspection Date: April 14, 2003**

12. Plaintiff incorporates by reference paragraph numbers 1 through 11 of the complaint as if fully set forth herein.

13. On April 14, 2003 OSHA officials again inspected defendant's place of business

and issued defendant citations for additional violations of the Act (Exhibits B-1 through B-5), including:

- a. Violation of 29 C.F.R. § 1910.1200(e)(1) for the failure to develop and maintain a written hazard communication program at the workplace. (Exhibit B-1).
- b. Violation of 29 C.F.R. § 1910.1200(g)(1) for failing to obtain or develop a material safety data sheet for hazardous chemicals. (Exhibit B-2).
- c. Violation of 29 C.F.R. § 1910.1200(h)(1) for failing to provide information and training on hazardous materials in the work area. (Exhibit B-3).

14. On May 1, 2003, OSHA sent a Notification for Failure to Abate Alleged Violations to Defendant regarding the April 14, 2003 inspection. (Exhibit B-4).

15. On September 10, 2003, OSHA sent a final notification for payment due regarding the May 1, 2003 OSHA violations to Defendant in the amount of \$ 18,110.00. (Exhibit B-5).

16. Defendant never contested the citations which are now final and are not subject to review by any court or agency.

17. As of the date of this complaint, defendant has not paid any amount of the penalty assessed although demand has been duly made. The amount due and outstanding for the April 14, 2003 violations is \$19,209.50 including interest at the rate of 2.00% through November 30, 2003. No additional interest has accrued since November 30, 2003.

**COUNT THREE**

**OSHA Inspection Number P307015222**

**Inspection Date: September 9-11, 2003**

18. Plaintiff incorporates by reference paragraph numbers 1 through 17 of the complaint as if fully set forth herein.

19. From September 9, 2003 through September 11, 2003, OSHA officials inspected Defendant's place of business and issued Defendant citations for numerous violations of the Act (Exhibits C-1 through C-10):

- a. Violation of 29 C.F.R. § 1910.37(a)(3) for the failure to provide appropriate stairs or ramps. (Exhibit C-1).
- b. Violation of 29 C.F.R. § 1910.107(c)(5) for the failure to approve electrical equipment in certain locations. (Exhibit C-1).
- c. Violation of 29 C.F.R. § 1910.107(c)(8) for using portable lamps in a spraying area. (Exhibit C-2).
- d. Violation of 29 C.F.R. § 1910.107(e) for exceeding the maximum quantity of flammable or combustible liquids in a spraying area. (Exhibit C-2).
- e. Violation of 29 C.F.R. § 1910.107(g)(2) for failing to keep the spray area from an accumulation of deposits of combustible residues. (Exhibit C-3).
- f. Violation of 29 C.F.R. § 1910.107(g)(7) for the failure to hang appropriate "NO SMOKING" signs in spraying areas. (Exhibit C-3).
- g. Violation of 29 C.F.R. § 1910.132(d) for the failure to assess the work place for hazards. (Exhibit C-4).

- h. Violation of 29 C.F.R. § 1910.134(c)(1) for the failure to establish and implement a written respiratory protection program where necessary. (Exhibit C-4).
  - i. Violation of 29 C.F.R. § 1910.134(e)(1) for the failure to provide a medical evaluation to determine the employee's ability to use a respirator. (Exhibit C-5).
  - j. Violation of 29 C.F.R. § 1910.134(f)(2) for the failure to assure that a tight fitting respirator used by an employee was fit-tested prior to its use. (Exhibit C-5).
  - k. Violation of 29 C.F.R. § 1910.134(h)(1) for the failure to collect, clean, or disinfect routinely used respirators as necessary. (Exhibit C-6).
  - l. Violation of 29 C.F.R. § 1910.134(k) for the failure to provide an effective training program for employees who are required to use respirators. (Exhibit C-6).
  - m. Violation of 29 C.F.R. § 1910.157(c)(1) for the failure to mount portable fire extinguishers as necessary. (Exhibit C-7).
20. On December 24, 2003, OSHA sent a Citation and Notification of Penalty and a Debt Collection Notice to Defendant regarding the September 9-11, 2003 inspection. (Exhibit C-8).
21. On April 16, 2004, OSHA sent a Citation and Notification of Penalty and a Debt Collection Notice to Defendant regarding the failure to submit a abatement certification to OSHA about the violations cited in the September 9-11, 2003 inspection. (Exhibit C-9).
22. On May 26, 2004, OSHA sent a final collection letter in the amount of \$7,037.50 regarding the violations from the September 9, 2003 through September 11, 2003 inspection. (Exhibit C-10).

23. Defendant never contested the citations which are now a final order of OSHA and is not subject to review by any court or agency.

24. As of the date of this complaint, defendant has not paid any amount of the penalty assessed although demand has been duly made. The amount due and outstanding for the September 9-11, 2003 violations is \$7,446.90, including interest accrued at the rate of 2.00% through December 8, 2004. No additional interest has accrued since December 8, 2004.

### **PRAYER FOR RELIEF**

WHEREFORE, the United States of America, plaintiff, demands judgment against Defendant, Precision Fleet Industrial Services, Inc., for Count One in the amount of \$2,139.57, Count Two in the amount of \$19,209.50, and Count Three in the amount of \$7,446.90 for a total of \$28,795.97 as of June 21, 2005, plus costs and other proper relief.

PATRICK L. MEEHAN  
United States Attorney

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Dated: June 28, 2005